IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Vinod Singh Vs. State of Rajasthan
(D.B. Criminal Appeal No.514/2001)

D. B. Criminal Appeal under Sec.374 (2) Cr.P.C. against the judgment dated 27-7-2001 in Sessions Case No.27/2000 passed by Shri C.P. Singh, RHJS, Additional Sessions Judge Bayana, District Bharatpur.

Date of Judgment: May 02, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE GUMAN SINGH

Mr. Sumer Singh, for the appellant.

Mr. M.L.Goyal, Public Prosecutor for the State.

BY THE COURT: (PER HON'BLE Shiv Kumar Sharma,J.)

Vinod Singh, the appellant herein, was put to trial before the learned Additional Sessions Judge Bayana District Bharatpur. Learned Judge vide judgment dated July 27, 2001 convicted and sentenced the appellant under Section 302 IPC to suffer imprisonment for life and fine of Rs.500/-, in default to further suffer rigorous imprisonment for one month.

2. The prosecution case is that on February 14, 2000 the informant Narendra Singh (Pw.4) submitted a written report at Police Station Bhusawar to the effect that on the said day around 6.00 PM while his brother Veerpal was sitting at his shop of eggs and Karan, Mukesh and others were also sitting there, appellant Vinod along with Babloo @ Narendra, Suresh, Sujan, Babu and two others came at the shop and Babloo asked Veerpal to

come out of the shop. When Veerpal did not agree to come out, all of them made assault on Veerpal. Vinod inflicted knife blows on the Stomach and Chest of Veerpal, who was removed to Hospital at Bhusawar, where he was declared dead. On that report a case under sections 147 and 302 IPC was registered and investigation commenced. After usual investigation charge sheet was filed. In due course the case came up for trial before the learned Additional Sessions Judge Bayana District Bharatpur. Charge under section 302 IPC was framed against the accused, who denied the charges and claimed trial. The prosecution in support of its case examined as may as 19 witnesses. In the explanation under Sec.313 Cr.P.C., the appellant claimed innocence and stated that his uncle contested the election of Sarpanch and won the same therefore due to political rivalry he has been implicated falsely in the case. Four witnesses in support of defence were examined. Learned trial Judge on hearing final submissions convicted and sentenced the appellant as indicated herein above.

3. We have heard the submissions and weighed the material on record.

4. Death of Veerpal was indisputably homicidal in nature. Vide Post Mortem Report (Ex.P-17) following ante mortem injuries were found on the dead body:-

> 1. Stab wound 3½ x 1½ with clotted blood situated in the epigastric region of abdomen slightly on Rt. side from midline situated above downward in upper part of epigastrium penetrating the muscles.
> 2. Abrasion with clotted blood 6-7cm x linear type situated over back of left chest.
> 3. Abrasions two, linear & size about 3-4cm & 2-3cm with clotted blood situated over back of left upper arm. (Just below the middle part.)

In the opinion of Dr. Jagveer Singh (Pw.16) the cause of death was syncope due to massive hemorrhage from the wound in heart.

5. Having analysed the evidence adduced at the trial by the yardstick of probabilities, its intrinsic worth and animus of witnesses we find that the prosecution is only able to establish beyond reasonable doubt that appellant Vinod Singh came armed with knife and inflicted solitary blow with knife and fled away. At best the case can be one where appellant Vinod Singh might be said to have caused a bodily injury as is likely to cause death, with an intention to cause death, he can be convicted under section 304 Part I. Therefore, there is every justification to alter the conviction recorded under section 302 into one Section 304 Part I IPC. On the facts and circumstances of the case, the imposition of 10 years rigorous imprisonment and fine would sufficiently meet the requirements of justice and to this extent the judgment of the court below shall stand altered and modified.

6. For these reasons, we partly allow the appeal and instead of section 302, we convict the appellant under section 304 part I IPC and sentence him to suffer rigorous imprisonment for 10 years and fine of Rs.1000/-, in default to further suffer six months rigorous imprisonment.

The impugned judgment of learned trial court stands modified as indicated above.

(Guman Singh),J. (Shiv Kumar Sharma)J.

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